

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

AK Steel Corporation  
Middletown, Ohio, facility

Proceedings Pursuant to the  
Section 113 of the Clean Air Act,  
42 U.S.C. § 7413

**NOTICE OF VIOLATION**

**EPA-5-00-OH-23**

**NOTICE OF VIOLATION**

The Administrator of the United States Environmental Protection Agency ("U.S. EPA") is issuing this Notice of Violation under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). U.S. EPA finds that AK Steel Corporation ("AK Steel"), Middletown, Ohio, is violating the Ohio State Implementation Plan ("SIP"), as follows:

**REGULATORY AUTHORITY**

1. Section 110 of the Act, 42 U.S.C. § 7410, requires States to adopt, and submit to the U.S. EPA for approval, SIPs providing for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards ("NAAQS") promulgated by U.S. EPA pursuant to Section 109 of the Act, 42 U.S.C. § 7409. U.S. EPA has promulgated NAAQS for, among other pollutants, particulate matter.
2. On April 15, 1974, the Administrator of the U.S. EPA approved Ohio Pollution Control Board Rule AP-3-07 as part of the federally enforceable SIP for the State of Ohio. 39 Fed. Reg. 13539. Ohio Pollution Control Board Rule AP-3-07 regulates visible emissions from stationary sources.
3. On May 27, 1994, the Administrator of the U.S. EPA approved Ohio Administrative Code ("OAC") Rule 3745-17-07 as part of the federally enforceable SIP for the State of Ohio. 59 Fed. Reg. 27464. OAC Rule 3745-17-07 superceded Ohio Pollution Control Board Rule AP-3-07 and regulates visible emissions from stationary sources.
4. OAC Rule 3745-17-07(B)(1) states that except as provided in paragraphs (B)(2) to (B)(7) of this rule, visible particulate matter emissions from any fugitive dust source shall not exceed twenty per cent opacity as a three-minute average.

5. On March 31, 1981, the Administrator of the U.S. EPA conditionally approved portions of Rule 08 of Chapter 3745-17 of the Ohio Administrative Code for the primary total suspended particulate nonattainment area of Middletown, Ohio. 46 Fed. Reg. 19458. At the time of this approval, Ohio had submitted OAC Rule 3745-17-01 through 11. The March 31, 1981, Federal Register notice only approved Part 08 as it applied to ARMCO, now AK Steel. Rulemaking on the adequacy of Rules 01-07, 09-11 and 08 for the remainder of the State was to be discussed in a separate Federal Register notice.
6. On May 27, 1994, the Administrator of the U.S. EPA approved portions of the Ohio Implementation Plan revisions for particulate matter regulations. This approval included the remaining portions of OAC 3745-17-08. 59 Fed. Reg. 27464.
7. OAC Rule 3745-17-08 states that the owner or operator of a fugitive dust source located in the Middletown area must develop a control program for that source. The March 31, 1981, approval at 46 Fed. Reg. 19458, exempts from compliance with OAC Rule 3745-17-08(B), fugitive emissions from the number 3 blast furnace and the numbers 15 and 16 basic oxygen furnaces located at AK Steel. The March 31, 1981, Federal Register notice further states that "these sources are permitted to operate at status quo levels."
8. OAC Rule 3745-17-08(A)(2) states that, "notwithstanding the exemptions in paragraph (A)(3) of this rule [includes exemptions for AK Steel], the requirements of paragraph (B) of this rule shall apply to any fugitive dust source regardless of location if, in the Director's judgement, probable cause exists to believe that such source is causing or contributing to a violation of rule 3745-15-07 or 3745-17-02 of the Administrative Code."
9. OAC Rule 3745-17-08(B) states that "no person shall cause or permit any fugitive dust source to be operated; or any materials to be handled, transported, or stored; or a building or its appurtenances or a road to be used, constructed, altered, repaired, or demolished without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne." Such reasonably available control measures shall include, among other things, the installation and use of hoods, fans, and other equipment to adequately enclose, contain, capture, vent and control the fugitive dust. OAC Rule 3745-17-08(B)(3).
10. OAC Rule 3745-17-08(C) states that for purposes of determining compliance with the requirements of paragraph (B) of this rule, the Director shall consider a control measure to be adequate if it complies with the following: (1) the visible particulate emission limitation(s) contained in Rule 3745-17-07 of the Administrative Code; and (2) if applicable, the control requirements contained in paragraph (B)(3) of this rule.

11. OAC Rule 3745-15-07 prohibits the emission or escape into the open air from any source or sources whatsoever, of smoke, ash, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable damage to property. OAC 3745-15-07 declares such emissions to be a public nuisance and states that it shall be unlawful for any person to cause, permit, or maintain any such public nuisance. Sources of odors exempt from regulation under all of Chapter 3745-17 (particulate matter emission limits), 3745-18 (sulfur dioxide emission limits), 3745-21 (volatile organic compound emission limits) or 3745-31 (permit to install rules) of the Ohio Administrative Code are not subject to OAC 3745-15-07.
12. Pursuant to Section 110 of the Act, 42 U.S.C. § 7410, on August 13, 1984 (49 Fed. Reg. 32181), the Administrator approved OAC Rule 3745-15-07 as part of the federally enforceable SIP. 40 C.F.R. § 52.1870(c)(63).

#### **FINDINGS OF FACT**

13. AK Steel operates an integrated steel production facility located at 1801 Crawford Street, Middletown, Butler County, Ohio ("Middletown Works"). The facility consists of numerous steel making operations including the Number 15 and 16 basic oxygen furnace shop.
14. On June 20, 1997, the Director of the Ohio Environmental Protection Agency determined that there was probable cause to believe that AK Steel's basic oxygen furnace shop, among other things, was causing or contributing to a nuisance in violation of OAC Rule 3745-15-07.
15. On September 8, October 6, October 26, November 9, and November 24, 1998, an inspector from the Hamilton County Department of Environmental Services (HCDES) conducted visible emission observations from the roof monitor of the basic oxygen furnace shop roof monitor. These visible emission observations included three-minute averages that were greater than 20% opacity. See Table 1.

Table 1. BOF Shop Roof Monitor - Visible Particulate Matter Emissions.

Date of Violation	Observer	Time of 3-minute Violation	Opacity Value
09/08/98	HCDES	10:11 - 10:14 am	28%
		10:30 - 10:33 am	42%
		10:33 - 10:36 am	37%
		10:36 - 10:39 am	49%
		10:39 - 10:42 am	35%
		10:45 - 10:48 am	28%
		10:57 - 11:00 am	47%
10/06/98	HCDES	09:00 - 09:03 am	24%
		09:11 - 09:14 am	56%
		09:35 - 09:38 am	27%
		09:41 - 09:44 am	32%
		09:44 - 09:47 am	37%
		09:47 - 09:50 am	45%
10/26/98	HCDES	09:07 - 09:10 am	35%
		09:10 - 09:13 am	52%
		09:13 - 09:16 am	39%
		09:43 - 09:46 am	35%
		09:46 - 09:49 am	42%
		09:52 - 09:55 am	71%
		09:55 - 09:58 am	55%
11/09/98	HCDES	09:18 - 09:21 am	45%
		09:29 - 09:32 am	30%
		09:32 - 09:35 am	35%
		09:40 - 09:43 am	45%
		09:50 - 09:53 am	46%
		10:10 - 10:13 am	30%
11/24/98	HCDES	09:04 - 09:07 am	34%
		09:07 - 09:10 am	31%
		09:15 - 09:18 am	32%
		09:33 - 09:36 am	32%
		09:45 - 09:48 am	23%

#### FINDINGS OF VIOLATION

16. The Director of the Ohio Environmental Protection Agency has found that AK Steel violated OAC Rule 3745-15-07, and thus AK Steel is subject to the requirements of OAC Rules 3745-17-08(B) and 3745-17-07(B). OAC Rule 3745-17-08(B) requires, among other things, that AK Steel shall not cause or permit any fugitive dust source to be operated without first installing reasonably available control measures to prevent fugitive

dust from becoming airborne. Compliance with OAC Rule 3745-17-08(B) is determined by meeting, among other things, the requirements in OAC Rule 3745-17-07(B)(1), which states that except as provided in paragraphs (B)(2) to (B)(7) of this rule, visible particulate matter emissions from any fugitive dust source shall not exceed twenty per cent opacity as a three-minute average.

17. As stated previously, AK Steel has exceeded the twenty percent opacity limit on the basic oxygen furnace shop roof monitor on at least several occasions and is thus in violation of OAC Rule 3745-17-07(B)(1) and therefore OAC Rule 3745-17-08(B).

The Administrator of the U.S. EPA, by authority duly delegated to the undersigned, notifies the State of Ohio and the AK Steel Corporation that the facility described above is in violation of the Ohio State Implementation Plan as promulgated pursuant to Section 110 of the Act, 42. U.S.C. § 7410, as set forth in this Notice of Violation.

7-24-00

Date



Bharat Mathur, Director  
Air and Radiation Division

CERTIFICATE OF MAILING

**Re: Notice of Violation at AK Steel Corporation, Middletown, Ohio**

I, Loretta Shaffer, do hereby certify that a Notice of Violation Pursuant to the Clean Air Act was sent by Certified Mail, Return Receipt Requested, to:

Richard M. Wardrop, President  
AK Steel Corporation  
703 Curtis Street  
Middletown, Ohio 45044

I, Loretta Shaffer, certify that a copy of the Notice of Violation Pursuant to the Clean Air Act was sent by first class mail to:

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

and

Cory Chadwick, Program Manager  
Hamilton County Department of Environmental Services  
1632 Central Parkway  
Cincinnati, Ohio 45210

and

J. Jeffrey McNealey, Esquire  
Porter, Wright, Morris & Arthur  
41 High Street  
Columbus, Ohio 43215-3406

on the 25<sup>th</sup> day of July, 2000.

  
Loretta Shaffer, Secretary

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Certified Mail Article Number

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